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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/756,688      | 01/09/2001  | Richard L. Fisher    | Fisher-001221       | 4670             |

7590 03/13/2002

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EXAMINER

AVILA, STEPHEN P

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3617

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |                           |   |  |
|--|---------------------------|---|--|
| <b>Office Action Summary</b>   | Application No.           | Applicant(s)  |  |
|  | 09/756,688                | FISHER, RICHARD L.  |  |
|  | Examiner<br>Stephen Avila | Art Unit<br>3617  |  |
| <i>~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~</i>   |                           |   |  |
| <b>Period for Reply</b>  |                           |   |  |
| <b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>   |                           |   |  |
| <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul> |                           |   |  |
| <b>Status</b>  |                           |   |  |
| 1) <input checked="" type="checkbox"/> <b>Responsive to communication(s) filed on <u>06 February 2002</u> and <u>07 February 2002</u>.</b>   |                           |   |  |
| 2a) <input checked="" type="checkbox"/> <b>This action is FINAL.</b> 2b) <input type="checkbox"/> <b>This action is non-final.</b>   |                           |   |  |
| 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  |                           |   |  |
| <b>Disposition of Claims</b>   |                           |   |  |
| 4) <input checked="" type="checkbox"/> <b>Claim(s) <u>21-37</u> is/are pending in the application.</b>   |                           |   |  |
| 4a) Of the above claim(s) _____ is/are withdrawn from consideration.   |                           |   |  |
| 5) <input type="checkbox"/> <b>Claim(s) _____ is/are allowed.</b>  |                           |   |  |
| 6) <input checked="" type="checkbox"/> <b>Claim(s) <u>21-37</u> is/are rejected.</b>   |                           |   |  |
| 7) <input type="checkbox"/> <b>Claim(s) _____ is/are objected to.</b>  |                           |   |  |
| 8) <input type="checkbox"/> <b>Claim(s) _____ are subject to restriction and/or election requirement.</b>  |                           |   |  |
| <b>Application Papers</b>  |                           |   |  |
| 9) <input type="checkbox"/> <b>The specification is objected to by the Examiner.</b>   |                           |   |  |
| 10) <input type="checkbox"/> <b>The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</b>   |                           |   |  |
| Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  |                           |   |  |
| 11) <input type="checkbox"/> <b>The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</b>   |                           |   |  |
| If approved, corrected drawings are required in reply to this Office action.   |                           |   |  |
| 12) <input type="checkbox"/> <b>The oath or declaration is objected to by the Examiner.</b>  |                           |   |  |
| <b>Priority under 35 U.S.C. §§ 119 and 120</b>   |                           |   |  |
| 13) <input type="checkbox"/> <b>Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</b>  |                           |   |  |
| a) <input type="checkbox"/> All    b) <input type="checkbox"/> Some *    c) <input type="checkbox"/> None of:  |                           |   |  |
| 1. <input type="checkbox"/> Certified copies of the priority documents have been received.   |                           |   |  |
| 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.  |                           |   |  |
| 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).   |                           |   |  |
| * See the attached detailed Office action for a list of the certified copies not received.   |                           |   |  |
| 14) <input type="checkbox"/> <b>Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</b>   |                           |   |  |
| a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.   |                           |   |  |
| 15) <input type="checkbox"/> <b>Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</b>   |                           |   |  |
| <b>Attachment(s)</b>   |                           |   |  |
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   |                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   |                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____  |                           | 6) <input type="checkbox"/> Other: _____                                    |  |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 21-37 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Foreman. Foreman discloses a drive assembly for a marine motor with an elongate drive tube, a drive assembly, a bearing, and a seal.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 21-37 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For example, the specification does not clearly provide a marine mud motor, a drive tube that includes a drive assembly housing, a bearing, in rotational communication between the drive assembly housing and the drive shaft, and a seal configured to restrict contaminants from entering the drive assembly housing, as claimed. Also not clearly disclosed in the specification: The drive tube and the drive assembly are an integral unit. The housing inside diameter being larger than the inside diameter of the drive tube. The bearing

having an outside diameter greater than the inside diameter of the drive tube. A pressurized area formed between the inner and outer seals.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Avila whose telephone number is 703-308-2578. The examiner can normally be reached on Monday to Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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305-7687 for regular communications and 703-305-7687 for After Final  
communications.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-308-  
1113.



Stephen Avila  
Primary Examiner  
Art Unit 3617

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March 6, 2002

